

Tennessee Board of Pharmacy  
September 20 - 21, 2005

**TENNESSEE BOARD OF PHARMACY  
SEPTEMBER 20 – 21, 2005  
ROOM 160 – DAVY CROCKETT TOWER  
NASHVILLE, TN**

**BOARD MEMBERS PRESENT:**

Reggie Dilliard, President  
James Mitchell, Member  
Monica Franklin, Public Member  
Todd Bess, Member  
Robert Shutt, Member

**STAFF PRESENT:**

Kendall Lynch, Director  
Alison Z. Cleaves, Chief Legal Counsel  
Martha Agee, Board Administrator  
Terrence Cannada, Pharmacist Investigator  
Harry Fuqua, Pharmacist Investigator  
Terry Grinder, Pharmacist Investigator  
Richard Hadden, Pharmacist Investigator  
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Tuesday, September 20, 2005, in Room 160 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:20 a.m. CDT, by Dr. Reggie

Dilliard, President. President Dilliard noted for the record that Dr. Julie Frazier will not be present for the board meeting on Tuesday, September 20, 2005 and Dr. Sheila Mitchell will not be in attendance for either days of the meeting. Director Kendall Lynch introduced pharmacy students, Ms. Kristin Locke and Ms. Kristen Claude, who are participating in the Tennessee Health Interdisciplinary Program. Dr. Lynch also advised that Dr. Baeteena Black's father passed away and the Board expressed their condolences.

**APPROVAL OF THE MINUTES**

The **minutes of the May 17 - 18, 2005** board meeting were presented and reviewed by the Board. Dr. Todd Bess motioned **to approve** the minutes, seconded by Mrs. Monica Franklin. All were in favor and the motion carried. Director Kendall Lynch requested the minutes of the July 12 - 13, 2005 board meeting be deferred until Wednesday. Dr. Julie Frazier asked that the **minutes for July 12 - 13, 2005 be deferred until the next board meeting.**

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**FORMAL HEARING**

**MELANIE A. TORRY, RT**  
**415 Josephine**  
**Memphis, TN 38111**

**Docket #12.12-077401A**  
**Complaint #200501373**

The Honorable Randall LaFevor, Administrative Law Judge, presided at the hearing to consider the matter of Melanie Anita Torry. Mrs. Alison Cleaves, chief legal counsel for Regulatory Boards, Department of Commerce and Insurance represented the State of Tennessee. Mrs. Cleaves noted for the record that Ms. Melanie Torry was not present nor was she represented by counsel. The Board Members present for the hearing were Dr. Reggie Dilliard, Dr. Robert Mitchell, Mrs. Monica Franklin, Dr. Todd Bess and Dr. Robert Shutt. Mrs. Alison Cleaves presented evidence of an investigational report whereas service was served to Ms. Torry's father, at 415 Josephine, Memphis, Tennessee, and he was given a copy of the Notice of Hearing and Charges. Mrs. Cleaves stated Rule 1140-2-.02 (10) addresses notifying the Board in writing of any change of address. Judge Randall LaFevor noted there was sufficient evidence to indicate that service was served and stated a motion to proceed with the hearing for Default, was not necessary.

Chief legal counsel, Mrs. Cleaves stated Ms. Torry was first registered on December 22, 2003 and was employed at Ike's #3, 2145 Union Avenue, in Memphis, Tennessee. Mrs. Cleaves called Mr. Mark Mellick to the stand, and after being sworn in, testified on the State's behalf. Mr. Mellick, a Loss Prevention Manager with Ike's, stated he installs video monitors to determine drug losses in the pharmacy. Mr. Mellick testified on May 14, 2005, he noticed there were high adjustments made on the controlled substances reports.

**FINDINGS OF FACT**

Dr. Robert Mitchell motioned **to accept the Allegations of Fact**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**CONCLUSION OF LAW**

Dr. Robert Mitchell motioned **to accept the Conclusion of Law as stated in the Notice of Hearing and Charges**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**POLICY STATEMENT**

Dr. Todd Bess motioned that registration #19143 for Melanie Torry be **revoked** due to disciplinary reasons. Dr. Robert Shutt seconded the motion. All were in favor and the motion carried.

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Dr. Bess stated it is the policy of the Board of Pharmacy to revoke a registration or license of any technician or pharmacist who has violated any board law or rule. Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

**CONSENT ORDERS**

**AGREED ORDERS:**

**FELICIA STARR ALLEN, RT**  
**105 Wood Lane**  
**Church Hill, TN 37642**

**DOCKET #12.12-077404A**  
**COMPLAINT #200500315**

Mrs. Alison Cleaves stated Ms. Felicia Allen admitted to taking approximately two-hundred (200) tablets of Lortab 7.5/500 without a prescription from an authorized prescriber and a Report of theft or Loss of Controlled Substances (DEA 106 Form) was filed. Dr. Robert Shutt motioned to **accept** the Agreed Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**STACEY K. BUNTING, RT**  
**520 Forge Creek Road #2-G**  
**Mountain City, TN 37683**

**DOCKET #12.12-077405A**  
**COMPLAINT #200500638**

Chief legal counsel, Mrs. Alison Cleaves, stated Ms. Stacey Bunting was observed placing an object in her purse in the section of the pharmacy where the Valium and Diazepam were located. Ms. Bunting did not have a prescription from an authorized prescriber. The police were notified and as a result of the reported theft, Ms. Bunting pled guilty to Theft and Simple Possession and was placed on probation for eleven (11) months and twenty-nine (29) days in Johnson County General Sessions Court. Ms. Bunting agreed to the revocation of her pharmacy technician registration. Dr. Robert Shutt motioned to **accept the Agreed Order**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**PAULA G. LAMBERT, RT**  
**9210 Carriage Lane**  
**Ooltewah, TN 37363**

**DOCKET #12.12-077403A**  
**COMPLAINT #200501725**

Chief legal counsel, Mrs. Alison Cleaves, stated the technician's registration has expired and there are no grace periods. Mrs. Cleaves recommended to the Board to close the complaint and re-open if necessary.

**DOCKET #12.12-077402A**  
**COMPLAINT #200501356**

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Mrs. Alison Cleaves, chief legal counsel for regulatory boards, noted the above referenced Docket # and Complaint #, **will be presented at the November 15 - 16, 2005 meeting.**

**JANE ELLEN LEGGE, RT**  
**708 Portland Blvd.**  
**Portland, TN 37148**

**DOCKET #12.12-077399A**  
**COMPLAINT #200501362**

Mrs. Alison Cleaves, chief legal counsel, advised that closed circuit television tapes revealed Ms. Jane Legge removing controlled substances from the shelves and she did not have a prescription from an authorized prescriber. Dr. Robert Shutt motioned to **accept the Agreed Order**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**DONALD FRANCIS, DPH**  
**JABO'S PHARMACY**  
**602 East Broadway**  
**Newport, TN 37821**

**DOCKET #12.12-073511A**  
**COMPLAINT #200418466**

Chief legal counsel, Mrs. Alison Cleaves, noted the Board authorized a Notice of Hearing and charges after an audit revealed substantial losses of controlled substances. After charges were filed, investigators had difficulty in performing an audit as invoices were missing. Later, the pharmacist located some of the invoices and there were not that many lost as first thought. However, there was a bookkeeping problem at the pharmacy. The pharmacist agreed to a probationary term of three (3) years from the effective date of the Agreed Order; and must submit a controlled substance inventory of Jabo's Pharmacy every six (6) months to the Board office. The Agreed Order will become effective immediately upon filing with the Secretary of State's Office (filed on September 26, 2005). The pharmacist agrees to pay investigational costs associated with the investigation of \$1,225 and the fees were received on September 16, 2005. Dr. Robert Mitchell motioned to **accept the Agreed Order**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

#### **CHEMICAL DEPENDENCIES**

Mrs. Alison Cleaves, chief legal counsel, stated the following pharmacists acknowledged having been addicted to the use of alcohol, narcotics or other drugs and their license have been indefinitely suspended to engage in the practice of pharmacy, with the exception of one (1) \* whose license has been revoked:

**WILLIAM D. BETHSHEARS, DPH**  
1104 Tomlin Chapel Road, Parsons, Tennessee 38363

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**\*GREGORY KIRK JONES, DPH**

434 Coralwood Drive, Kingsport, Tennessee 37663

**ROBERT B. KILPARTICK, DPH**

2709 Fogle Street, Nashville, Tennessee 37211

**TIMOTHY SIMEK, DPH**

1009 Windridge Drive, Maryville, Tennessee 37803

**SAMUEL SMITH, DPH**

809 Coventry Road, Knoxville, Tennessee 37923

**DAVID WENDOVER, DPH**

4603 Bernadette Avenue, Omaha, Nebraska 68157

Dr. Robert Shutt motioned to **accept** the above referenced Consent Orders for chemical impairment; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

#### **REINSTATEMENT OF LICENSE**

**JANET HARTMAN HICKS, DPH**

**9701 Grovelake Way #301**

**Knoxville, TN 37922**

Chief legal counsel, Mrs. Alison Cleaves presented a Consent Order for Reinstatement for Dr. Janet Hartman Hicks with a probationary term of fifteen (15) years. Dr. Todd Bess motioned to **accept** the Consent Order for Reinstatement; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**DAVID SULLIVAN, DPH**

**4280 Minden Road**

**Memphis, TN 38117**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for Reinstatement of license for Dr. David Sullivan, with a term of probation for five (5) years. Dr. Todd Bess motioned to **accept** the Consent Order for Reinstatement; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

#### **VIOLATIONS AND/OR CIVIL PENALTY**

**JOSEPH C. FACCHINEI, DPH**

**305 Banbury Park Lane**

**Franklin, TN 37069**

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order whereas Dr. Joseph Facchinei pled guilty to possession of marijuana and cocaine in Routt County District Court, in Steamboat Springs, Colorado. Dr. Facchinei's license has been placed on a five (5) year term of probation.

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**MARK S. HOFFMAN, DPH**  
**1954 Myron Cove, North**  
**Cordova, TN 38016**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas Dr. Mark Hoffman, PIC, allowed an unregistered individual to work as a pharmacy technician. A civil penalty of \$100 was assessed.

**SARA STOUT, RT**  
**343 Hollis Chapel Road**  
**Portland, TN 37148**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas Ms. Sara Stout, a pharmacy technician, was in possession or sale of legend drugs without a prescription and some unrelated merchandise from the pharmacy. A civil penalty of \$200 was assessed.

**JAMES B. TAYLOR, DPH**  
**1031 Dianne Drive**  
**Dyersburg, TN 38024**

A Consent Order for Dr. James B. Taylor was presented by chief legal counsel, Mrs. Alison Cleaves, whereas an investigator observed that the pharmacy was open with no pharmacist on duty and a nurse on duty had a key to the pharmacy allowing her unrestricted access. A civil penalty of \$200 was assessed.

**JARRELL L. THORNTON, DPH, PIC**  
**515 Thomas Street**  
**Newbern, TN 38059**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas Dr. Jarrell Thornton, PIC, allowed three (3) unregistered individuals to work as pharmacy technicians. A civil penalty of \$300 was assessed.

**ANETIA WILSON, DPH**  
**7372 Eastern Avenue**  
**Germantown, TN 38138**

Chief legal counsel, Mrs. Alison Cleaves, stated Dr. Anetia Wilson violated a term of the existing Consent Order she entered into with the Board on March 14 - 15, 2001, by testing positive for Ultram and Hydrocodone for which there was no prescription on file. Dr. Wilson's primary care physician stated all samples taken were authorized. Chief legal counsel, Mrs. Cleaves stated Dr. Wilson **has agreed to a two-year extension of the probationary term to March 14 - 15, 2008.** (The original five (5) year term was from March 14 - 15, 2001 thru 2006).

Penalty; seconded by Dr. Todd Bess. All were in favor and the motion carried.

## WAIVERS

### **ELSHAMLY ABDELFAH, PHARM D**

**20535 Hedgerow Hill**

**Bristol, VA 24202**

Dr. Elshamly Abdelfattah is requesting a waiver of Rule 1140-1-.07 (3) (c) relevant to taking the NAPLEX for the reinstatement of his pharmacist license. Since January 1993, Dr. Abdelfattah's license has been in an "invalid" status and he did not receive the Board's notice regarding the rule changes in 1998. Dr. Abdelfattah has held a valid Virginia license since September 1, 1984 and has completed fifteen (15) hours of continuing education per year. Dr. Robert Shutt motioned to **approve** the request based on the facts that he did not receive the Board's notice; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

### **SUSAN A. SHEPHARD, DPH**

**DICKSON APOTHECARY**

**104 Highway 70 East**

**Dickson, TN 37055**

Dr. Susan Shephard is requesting a waiver of Rule 1140-1-.12 (3) (d) relevant to the square footage requirement for a new compounding pharmacy. The pharmacy has a total of 152 sq. ft., of which 62 sq. ft. will be allocated for an immunization room; leaving 90 sq. ft. for the compounding pharmacy. Dr. Robert Shutt motioned to **accept** the waiver request; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

### **MS. THERESA WHITE, CEO**

**OXYGEN PLUS**

**900 McArthur Drive**

**Manchester, TN 37355**

Mrs. Theresa White is requesting a waiver of Rule 1140-1-.12 (3) (d) relevant to the square footage requirement for a pharmacy. Oxygen Plus dispenses respiratory medications and has a total of 100 sq. ft. with two (2) sinks. Dr. Robert Mitchell motioned to **grant** the waiver; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

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**JACKIE SYKES, ADMINISTRATOR**  
**PRIME CARE PHARMACEUTICALS, LLC**  
**61 Atoka-McLaughlin Street #A**  
**Atoka, TN 38128**

Ms. Jackie Sykes, Administrator for Prime Care Pharmaceuticals, LLC, intends to open a closed door correctional mail order pharmacy and is requesting a waiver of Rule 1140-3-.14 (12) to allow Dr. Patricia Thomas Guy to be the pharmacist-in-charge at two (2) pharmacy practice sites. Dr. Guy will process prescriptions at Prime Care when they are received and she will be available by phone 24 hours a day/ 7 days a week. Dr. Guy is currently the PIC at Southeast Mental Health Center, which is only open on a part-time basis. The Board requested the waiver request be deferred until additional information could be obtained. Director Lynch stated Prime Care is a closed door pharmacy and Dr. Guy will work ten (10) hours a week. The medications are filled for a fifteen (15) day supply and Prime Care will contract with local pharmacies for emergency prescriptions. The two facilities are located approximately twenty (20) miles apart. After board discussion, Dr. Robert Shutt motioned to **approve** the request; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**H. DON HICKS, CEO**  
**PHARMACY HOME DELIVERY, LLC**  
**1087-B Alpharetta Street**  
**Roswell, GA 30075**

Mr. Don Hicks, Chief Executive Officer of Pharmacy Home Delivery, LLC, is requesting a waiver of Rule 1140-3-.14 (12) to allow Dr. James Lavenue to be the pharmacist-in-charge at two (2) pharmacy practice sites. Dr. Lavenue is currently the PIC at Alamo City Drugs and Pharmacy Home Delivery, LLC ("PHD") which will be located within the same physical space and street address. "PHD" plans to open their own pharmacy as the changes in TennCare and Medicare Part D Drug Benefit will increase their business as they are currently handling only six (6) prescriptions a day. The two pharmacies will maintain separate patient and dispensing records; and staffing personnel but will share running water and refrigeration. Dr. Robert Mitchell motioned to **grant** the waiver, seconded by Dr. Todd Bess. All were in favor and the motion carried.



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**GWENDOLYN BRANTLEY, DPH**  
**2827 Dunaway Drive**  
**Albany, GA 31721**

Dr. Gwendolyn Brantley is requesting a waiver of Rule 1140-1-.07 (3) (c) (3) relevant to the successful completion of the NAPLEX examination for the reinstatement of her pharmacist license. The Board requested additional information and deferred action. Director Kendall Lynch noted Dr. Brantley was licensed by examination in Tennessee and placed her license in “inactive” status prior to May, 1993. There was no returned mail; no notation that mail was received by Dr. Brantley or the Board receiving a response from the July, 1998 rule change notice. The Board’s notice was mailed to every inactive status. Mrs. Monica Franklin motioned to **approve** the waiver request; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

## **DIRECTOR’S REPORT**

### **TENNESSEE BOARD OF PHARMACY 2006 BOARD CALENDAR**

<b>January</b>	<b>10</b> 16 <b>17 - 18</b>	<b>105<sup>th</sup> Tennessee General Assembly Convenes</b> Martin Luther King, Jr. (Holiday) <b>Board Meeting</b>
<b>February</b>	<b>11 - 12</b> <b>18 - 19</b> 20 <b>27 - 28</b>	<b>Knoxville Update Seminar</b> <b>Cookeville Update Seminar</b> President’s Day (Holiday) TPA Midyear Meeting - Doubletree, Nashville
<b>March</b>	<b>4 - 5</b> <b>7 - 8</b> <b>11 - 12</b>	<b>Jackson Update Seminar</b> <b>Board Meeting</b> <b>Nashville Update Seminar</b>
<b>April</b>	<b>1 - 2</b> 8 - 11 14 <b>22 - 23</b> <b>29 - 30</b>	<b>Chattanooga Update Seminar</b> NABP Annual Meeting Good Friday (Holiday) <b>Kingsport Update Seminar</b> <b>Memphis Update Seminar</b>
<b>May</b>	<b>16 - 17</b> 29	<b>Board Meeting</b> Memorial Day (Holiday)
<b>July</b>	4 <b>18 - 19</b> 23 - 26	Independence Day (Holiday) <b>Board Meeting</b> TPA 119 <sup>TH</sup> Annual Convention – Knoxville
<b>August</b>	_____	<b>District III</b>
<b>September</b>	4	Labor Day (Holiday)

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	10 - 13 19 - 20	MALTAGON – Tunica, MS Board Meeting
October	19 - 20	Tripartite – Franklin, TN
November	7 7 - 8 11 23 - 24	Election Day - *(Early Voting)* Board Meeting Veteran's Day (Holiday) Thanksgiving (Holiday)
December	25	Christmas (Happy Holidays!!)

#### **NEW DEA POLICY: EFFECTIVE DATE OF FINAL RULE - JUNE 13, 2005**

#### **Preventing the Accumulation of Surplus Controlled Substances at Long Term Care Facilities; AND, E-Box Replacements**

Director Kendall Lynch stated DEA is amending its regulations to allow, where State laws permit, for retail pharmacy installation of automated dispensing systems at long term care facilities. Automated dispensing systems would allow dispensing of single dosage units and mitigate the problem of excess stocks and disposal. President Reggie Dilliard appointed Dr. Julie Frazier and Dr. Sheila Mitchell as an Ad Hoc Committee to review the current Board of Pharmacy rules for compliance with the new DEA Policy. In reference to the E-Box Replacements at nursing homes, Director Lynch noted possibilities included to grant a license for the home, change the Board of Pharmacy rules; and with the large quantity of controlled substances that are destroyed at long term care facilities, the potential diversion of controlled substances exists and the possible usage of the PYXIS type machines.

#### **HOUSE BILL NO. 1 – PUBLIC CHAPTER NO. 102 – EFFECTIVE JULY 1, 2005 IN-STATE CONSULTING DISCLOSURE; AND,**

#### **DEPARTMENT OF COMMERCE & INSURANCE REGULATORY BOARDS – MEMBERS SERVING AS “OFFICERS” OF TRADE AND PROFESSIONAL ASSOCIATIONS**

Director Kendall Lynch noted Governor Phil Bredesen recently signed into law House Bill No. 1, which creates several new prohibitions and disclosure requirements related to consulting work performed by state employees. This bill, which has been assigned Public Chapter No. 102, took effect July 1, 2005. The law imposes new disclosure requirements on all executive branch employees, including members or employees of state regulatory commissions, who receive any form of compensation for performing consulting services. Director Kendall Lynch reiterated to the Board of Assistant Commissioner Butch Lewis' directive relevant to Paragraph 6 of the Conflict of Interest Statement for Board and Commission Members, which states: “While serving on any board or commission, the board or commission member shall not serve as an officer, or otherwise serve in a policy-making role, in any trade or professional association.” Commissioner Lewis stated the board member shall resign either the office they hold or their seat on the Board.

#### **KNOXVILLE AREA PHARMACEUTICAL ACCESS COALITION (KAPAC) 140 Dameron Avenue Knoxville, TN 37917**

Director Kendall Lynch stated the Knoxville Area Pharmaceutical Access Coalition “KAPAC” would like for the board to consider offering an incentive for pharmacists who volunteer for service in charitable clinics. Dr. Lynch noted in 1999, the North Carolina Board of Pharmacy approved continuing education credits for the volunteers. The Coalition is proposing one (1) CE contact credit for every three (3) hours of volunteer service performed.

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The Board of Pharmacy Rule 1140-5-.01 allows up to six (6) non-ACPE credits. Dr. Todd Bess would like to propose one (1) CE credit to keep it in prospective. The Board requested the mechanism used by the North Carolina Board for auditing purposes.

#### **NATIONAL ASSOCIATION OF BOARDS OF PHARMACY 2005 – 2006 COMMITTEE AND TASK FORCE APPOINTMENTS**

Director Kendall Lynch noted the following NABP Committee and Task Force Appointments for 2005 -'06:

**Dr. Reggie Dilliard** was appointed to the **National Drug Advisory Coalition**, which is responsible for revising and updating the National Specified List of Susceptible Products;

**Mrs. Monica Franklin** was appointed to the **Task Force on Telepharmacy and the Implementation of the Medicare Drug Benefit Medication Therapy Management Provisions**, which reviews existing state regulations in regard to the practice of telepharmacy and considers the need for developing model legislation/regulations to address pharmacist care that may result from the implementation of the medication management therapy provisions of the Medicare Drug Benefit;

**Dr. Sheila Mitchell** was appointed to the **Task Force on Standards for Compounding**, which will review and revise the Model Rules for Sterile Pharmaceuticals of the Model State Pharmacy Act and Model Rules of the National Association of Boards of Pharmacy to reflect applicable standards set forth in USP Chapters 795 and 797, Pharmaceutical Compounding – Sterile Preparations; and,

**Dr. Julie Frazier** was appointed to the **Task Force on Model Regulations for Long Term Care**, which will continue the work of the Government Affairs Subcommittee to revise existing provisions of the Model Act relevant to long term care statutes and regulations.

Director Lynch stated, since the Board has contracts with NABP for the administration of the NAPLEX and MPJE, it may be a Conflict of Interest to allow NABP to pay for attendance at these meetings.

#### **NABP 2005 FALL EDUCATIONAL CONFERENCE THE TRUMP SONESTA HOTEL SUNNY ISLES BEACH, FL DECEMBER 2 - 4, 2005**

Director Kendall Lynch noted Dr. Reggie Dilliard will attend the NABP 2005 Fall Educational Conference in Sunny Isles Beach, Florida, which will include sessions relevant to counterfeit drugs, the Federal Regulatory

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Update on Controlled Substances, Medicare Prescription Drug, and establish the standards of education, training and scope of duties for pharmacy technicians and others.

**NOTICE OF RULEMAKING HEARING  
CHAPTER 0780-7-1 – INTERNET CONVENIENCE FEE**

Director Kendall Lynch advised the Board of a Notice of Rulemaking Hearing scheduled for Tuesday, October 18, 2005 at 10:00 a.m. in Conference Room “A” of the Davy Crockett Tower, located at 500 James Robertson Parkway, Nashville, Tennessee to consider the promulgation of rules pursuant to Chapter 375 of the Public Acts of 2005, relevant to allowing the Department of Commerce and Insurance to collect an Internet Convenience Fee for the renewal of license, registration or permit via the Internet. Dr. Lynch noted the Board of Pharmacy is willing to pay for this fee until this rule is approved. The applicant shall pay in addition to the applicable renewal fee, a convenience fee in an amount not to exceed \$3.50 plus an amount not to exceed two percent (2%) of the cost of the applicable license, registration, permit or renewal fee.

**PUBLIC CHAPTER NO. 434 – THE TENNESSEE AFFORDABLE DRUG ACT OF 2005 GENERIC SUBSTITUTION**

Director Kendall Lynch advised the members of the newly defined term of a generic equivalent as “a drug product which has the same established name, active ingredient(s), strength or concentration, dosage form and route of administration and which is formulated to contain the same amount of active ingredient(s) in the same dosage form and to meet the same compendial or other applicable standards (i.e. strength, quality, purity, and identity), but which may differ in characteristics, such as shape, scoring, configuration, packaging, excipients (including colors, flavors, preservatives), and expiration time”. Dr. Lynch stated in Section 6 of PC #434, the prescriber shall allow for substitution unless the prescriber determines the medical necessity of a brand name drug due to: (1) an adverse reaction previously experienced by the patient, a generic equivalent has been demonstrated as ineffective for the patient, or any other clinically based prescriber determined need; and (2) a generic equivalent is not available. If the prescriber determines a brand name drug is medically necessary, the appropriate language, or notation is made at the time the prescription is prepared and issued. In Section 7 (c) and (d), - if the co-pay is \$40, that would not be the entire price of the prescription.

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The Board of Pharmacy does not have the authority to interpret this Law per chief legal counsel, Mrs. Alison Cleaves. A violation of this law is a Class C Misdemeanor. Is the Board of Pharmacy to discipline a pharmacist until the law can be clarified?

The Board of Pharmacy advises the pharmacist to follow the law as written and if a patient insists on the brand name, they will be charged the full price of the prescription. While the Board is not in the business of interpreting or enforcing the law as written, we have taken into consideration their ability to pay for full amounts and to use your own best judgment!

### The Board deferred this issue.

**TRIPARTITE MEETING  
MARRIOTT @COOL SPRINGS  
FRANKLIN, TN  
OCTOBER 6 - 7, 2005**

Director Kendall Lynch stated to the Board that the Tripartite Meeting is scheduled for October 6 - 7, 2005 at The Marriott at Cool Springs in Franklin, Tennessee. Dr. Lynch stated several of the topics to be discussed are the disaster and emergency plans.

### **LONNIE CHRISTOPHER, DPH - RECIPROCAL CANDIDATE ORMAND BEACH, FL**

Director Kendall Lynch stated Dr. Lonnie Christopher submitted a reciprocity application to the Board and noted he had pled guilty to a misdemeanor charge involving a domestic situation. Dr. Christopher advised Dr. Lynch rather than subjecting his 11 year old son to testify in court he pled *nolo contendere* on the assault charge. Mrs. Monica Franklin motioned to **allow Dr. Christopher to proceed with licensure**, seconded by Dr. Julie Frazier. All were in favor and the motion carried.

### **PROFESSIONAL PRIVILEGE TAX**

Mrs. Alison Cleaves, chief legal counsel, and Director Kendall Lynch stated the Office of Legal Counsel for the Department has developed a letter that will be mailed to the licensee who is delinquent in paying the professional privilege tax for two (2) consecutive years, allowing the licensee to pay the fees before bringing this matter to the Board. The letter will be regarded as the first warning. Dr. Todd Bess motioned to **grant**

counsel permission to send out the letters regarding the professional privilege tax; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

#### **DELINQUENT CHILD SUPPORT PAYMENTS**

Chief legal counsel, Mrs. Alison Cleaves, advised the Department of Human Services will furnish a listing to the Department of Commerce and Insurance licensees who are at least \$500 in arrears of their child support payments. The Notice of Suspension, if not paid promptly, may result in disciplinary action taken against their license by the Board of Pharmacy. Dr. Robert Mitchell motioned to **accept the Notice of Suspension letter**, seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

#### **THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) and PUBLIC CHAPTER 18**

Director Kendall Lynch advised the Board under T.C.A. §53-11-406, Inspection - it states prescriptions, orders and records, and stocks of controlled substances shall be open for inspection only to federal, state, county and municipal officers whose duty it is to enforce the laws or regulations of this state or of the United States relating to controlled substances or narcotic drugs. Director Lynch inquired, if a detective requests to see the names of individuals who signed for methamphetamine, would this be considered a violation of the HIPAA law as the pharmacist has a privacy responsibility to the patient? Board of Pharmacy Rule 1140-2-.01 (6) states, "a pharmacist shall respect the confidential and personal nature of professional and patient records". The Department's in-house counsel should review.

#### **COMPLAINT/LEGAL REPORT**

**\* Mrs. Alison Cleaves, chief legal counsel, noted to the Board that complaints #1 - #7 were identical in nature and recommendation.**

##### **1. Case No.: L05-PHR-RBS-200501820**

Complainant alleges that Respondent, a registered technician, was terminated from her employment because of theft of controlled substances. The DEA 106 form indicates a loss of Phentermine Hydrochloride, lprazolam, Diazepam and Dronabinol. Respondent's registration expires on September 30, 2005, which is prior to our next Board meeting assuming the Board authorizes proceeding with a formal hearing.

*Previous complaints: None*

**Recommendation: Close complaint if Respondent does not renew and reopen upon reapplication.  
Authorize for formal hearing if Respondent renews registration**

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Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**2. Case No.: L05-PHR-RBS-200501838**

Complainant alleges that the Respondent, a registered technician, admitted to forging several prescriptions for Hydrocodone. Respondent's registration expires on September 30, 2005, which is prior to our next Board meeting assuming the Board authorizes proceeding with a formal hearing.

*Previous complaints: None*

**Recommendation: Close complaint if Respondent does not renew and reopen upon reapplication. In the event of renewal, then authorize formal hearing.**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**3. Case No.: L05-PHR-RBS-200501771**

Complaint alleges that the Respondent, a pharmacy technician was terminated from her employment for theft of controlled substances. The Respondent's registration will expire on September 30, 2005 before we can schedule the next formal hearing in October.

**Recommendation: Close and reopen complaint upon reapplication in the event the Respondent does not renew.**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**4. Case No.: L04-PHR-RBS-200420784**

Complaint alleges that the Respondent, pharmacy technician was terminated from her employment for theft of controlled substances. The Respondent's registration will expire on September 30, 2005 before we can schedule the next formal hearing in October.

**Recommendation: Close and reopen complaint upon reapplication in the event the Respondent does not renew.**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**5. Case No.: L05-PHR-RBS-200501034**

Complaint alleges that the Respondent, pharmacy technician was terminated from her employment for theft of controlled substances. The Respondent's registration will expire on September 30, 2005 before we can schedule the next formal hearing in October.

**Recommendation: Close and reopen complaint upon reapplication in the event the Respondent does not renew.**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**6. Case No.: L05-PHR-RBS-200501725**

Complainant alleges Respondent stole and diverted controlled substances – approximately three thousand six hundred (3,600) dosage units of various strengths of Hydrocodone over a period of approximately one (1) year from two (2) pharmacy locations when the Respondent did not have a prescription for Hydrocodone.

Respondent's registration expired in between Board meetings on August 31, 2005 and the Respondent has not renewed.

**Recommendation: Close and reopen complaint upon reapplication**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**7. Case No.: L05-PHR-RBS-200519068**

Complaint alleges the Respondent, pharmacy technician's theft of controlled substances from the pharmacy where she was employed. Respondent admitted to the theft of Hydrocodone. Before we could bring the Respondent in for a formal hearing, the Respondent's registration expired on August 31, 2005.

**Recommendation: Close and reopen complaint upon reapplication**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**\* Mrs. Alison Cleaves, chief legal counsel, noted to the Board that complaints #8 - #21 were identical in nature and recommendation.**

**8. Case No.: L05-PHR-RBS-200501840**

Complaint alleges that the Respondent, technician alleged stole various strengths of Alprazolam, Diazepam and Hydrocodone from the pharmacy where he was employed. Police Department was contacted.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**9. Case No.: L05-PHR-RBS-200501812**

Complaint alleges that the Respondent, pharmacy technician, was terminated from his employment for theft of Hydrocodone. While being pulled over for a seatbelt violation, a search of the Respondent's vehicle revealed a stock bottle containing 150 x Hydrocodone 10/650. Respondent first indicated that he was transferring the product to another store and then stated that another technician had stolen the drugs; Respondent was not authorized to transport the medication. Respondent was arrested and plead guilty to simple possession of Schedule II controlled substance and received one (1) year expugnable probation, which was not reported to the Board. Subsequent inventory shows shortages of approximately 3,200 Hydrocodone 10/650.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.



**10. Case No.: L05-PHR-RBS-200500462**

Complaint alleges that the Respondent, pharmacy technician, was terminated from her employment for theft of controlled substances. We have obtained a copy of the admission by the Respondent stating that she stole 8 x 100 Hydrocodone 10/500 from two (2) different pharmacies and 2 x 500 Alprazolam 1mg from a single pharmacy.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**11. Case No.: L05-PHR-RBS-200500989**

Complainant, physician notified the BOP office that he encountered several forged prescriptions in his name. Investigation into this matter revealed that approximately forty-three (43) forged prescriptions at three (3) different pharmacy locations during the period from November 24, 2004 to March 23, 2005; the prescriptions were primarily for Schedules III and IV controlled substances. Prescriptions were written by a pharmacy technician in his own name.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**12. Case No.: L05-PHR-RBS-200502589**

Complaint alleges that the Respondent, pharmacy technician, was terminated from her employment after receiving information that she filled prescriptions that she forged for herself and family members. Investigator obtained an affidavit from the prescriber who states that he did not issue or authorize the forged phoned-in prescriptions.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**13. Case No.: L05-PHR-RBS-200501397**

Complaint alleges that the Respondent, registered technician, admitted to forging a prescription for Floricet for her mother. Respondent admitted that she had done this on five (5) to ten (10) occasions since 2003 for herself and her mother; no controlled substances were involved. Respondent also admitted to the theft of some OTC items and signed a sworn statement containing all of these admissions. Respondent was terminated and law enforcement was contacted.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**14. Case No.: L05-PHR-RBS-200503231**

Complaint alleges that Respondent, pharmacy technician admitted to stealing Hydrocodone and Alprazolam from the pharmacy where she was employed. Respondent was terminated and arrested for Theft of Over \$1,000.00.

*Prior complaints: None*

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**15. Case No.: L05-PHR-RBS-200500833**

Complaint alleges that the Respondent, pharmacy technician verified her own prescriptions and added refills to her Hydrocodone prescription without physician authorization. Obtained admission from the Respondent to this alleged activity.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**16. Case No.: L05-PHR-RBS-200500942**

Complaint alleges that the Respondent, pharmacy technician was terminated for theft of Hydrocodone. An admission was obtained from the Respondent stating that she had prescriptions filled for herself.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**17. Case No.: L05-PHR-RBS-200502393**

Complaint alleges that the Respondent, pharmacy technician, was terminated from her employment for theft of controlled substances. Investigator obtained a video tape of her theft and obtained statements from other technicians observing the Respondent's conduct. Respondent admitted to the theft to the police, but police will not release the statement yet.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**18. Case No.: L05-PHR-RBS-200500326**

Complaint alleges that Respondent, pharmacy technician, was terminated from her employment for theft of controlled substances. Respondent has admitted to the conduct and we have obtained the DEA 106 form.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

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Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**19. Case No.: L05-PHR-RBS-200502817**

Complaint alleges that the Respondent, pharmacy technician was arrested for theft of controlled substances by filling and/or writing forged prescriptions. An admission was obtained by the Respondent and also affidavits from the providers stating that they did not issue or authorize the prescriptions.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**20. Case No.: L05-PHR-RBS-200502364**

Complaint alleges that the Respondent, pharmacy technician, was terminated from her employment for theft of controlled substances. An admission was obtained from the Respondent in addition to the DEA 106 form.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**21. Case No.: L05-PHR-RBS-200500732**

Complaint alleges that the Respondent, technician, was terminated from employment because of drug abuse. Complainant states that the Respondent could not keep her eyes open, dropped the phone and fell to the floor when working at the pharmacy. Investigation revealed that the Respondent was observed by other pharmacy staff to taking pills out of the stock bottles and the Respondent admitted to other pharmacy staff that she had a problem with drugs. Respondent did have prescriptions for several medications, such as Aciphex, Clonazepam, Tramadol.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**22. Case No.: L05-PHR-RBS-200502956**

Staff complaint opened alleging unlicensed conduct by viewing a website for a Tennessee company advertising the sale of prescriptions through a Canadian Pharmacy. Staff sent the Respondent Tennessee company a cease and desist letter. A representative of the Respondent company responded by stating that they had removed the links on their website and notified the Canadian pharmacy to do the same.

**Recommendation: Dismissal**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**, seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**23. Case No.: L05-PHR-RBS-200501874**

Complainant alleged that an unidentified pharmacist and pharmacy had made errors, but was unable to provide any specific information other than stating recently a bottle of solution used to wash clamps and other utensils was sent incorrectly.

PIC states that the Complainant has a prescription for Isosorbide 20 mg and refuses to take yellow tablets because they resemble Chlorpheniramine 4mg which she also takes. On one occasion, the pharmacy only had yellow tablets in stock and the Complainant refused the prescription until the other color could be obtained. PIC states that the Complainant also considers it an error when the vial lid is not the one she prefers.

*Prior complaints:*

*DPh: Unidentified*

*Pharmacy: None*

**Recommendation: Dismissal**

Dr. Todd Bess motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**24. Case No.: L05-PHR-RBS-200502775**

Anonymous complaint alleges that the pharmacy technician allowed her thirteen (13) year old son was present in the pharmacy, cleaning the stockroom, restocking vials and bottles in the pharmacy and giving patients their medication through the drive-through. Mother states that the child was ill and came to the pharmacy, but the child stayed in the breakroom and in the car, but never in the pharmacy. PIC states that the child was in the stockroom area, but never in the pharmacy and did not give medications to patients in the drive through.

**Recommendation: Dismissal**

Dr. Todd Bess motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**25. Case No.: L05-PHR-RBS-200501876**

Complainant, a physician, alleges that controlled substance prescriptions were filled at the pharmacy and attributed to him instead of the correct prescriber.

PIC confirms that the prescription was attributed to the incorrect physician; both physicians had the same last name. The pharmacist who retrieved the prescription from voicemail states that the caller simply provided "Dr. X". The technician who input the prescription selected the first "Dr. X" on the list to start the fill process with the intentions of making a call back to confirm the correct identity of the prescriber. The prescription was then processed without the correction being made. As a result of this incident, the PIC has conducted a review of prescriptions which indicates that this was an isolated incident. The PIC has conducted a training session with staff and emphasized the importance of selecting the correct prescriber.

*Prior complaints:*

*DPh: None*

*Tech None*

*Pharmacy: None*

**Recommendation: Dismissal**

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Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**26. Case No.: L05-PHR-RBS-200502771**

The Complainant is the spouse of the patient who alleges that the Respondent pharmacist was inappropriate and disrespectful by referring to the patient by a nickname, "ABC Streak". Complainant states that the patient had stomach surgery and his pants tend to sag and that she felt the Respondent was insinuating that he was a streaker, a person who runs around in the nude.

Respondent states that the patient is a friend and has called the patient this nickname affectionately for years, "ABC Flash" referring to the speed by which the patient drives and not the fact that the patient's pants sag. This is confirmed by two (2) other employees.

*Prior complaints: None*

**Recommendation: Dismissal**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**27. Case No.: L05-PHR-RBS-200500912**

Complainant alleges that she received a prescription for Lipitor 10mg on February 15, 2005 which was filled with a brown football shaped pill and when it was refilled, she received a white football shaped pill. She noticed the difference and verified the contents with the pharmacist. She since consumed all of the contents of the first prescription, she did not have anything by which to compare it, but feels that the prescription was misfilled.

Pharmacist denies the allegations and states that the pharmacy uses an automated system that compares bar codes and NDC numbers before dispensing. Pharmacist notes that another prescription filled on February 14, 2005 matches the description provided by the patient. The Complainant told the pharmacist that she usually transfers her prescriptions to a pill dispenser at home and the pharmacy thinks the error may possibly have occurred there.

*Prior complaints:*

*DPh: None*

*Pharmacy: None*

**Recommendation: Dismissal**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**28. Case No.: L05-PHR-RBS-200502395**

During a routine periodic inspection, investigator noted that an individual wearing a nametag that identified him as a pharmacy technician and observed that the individual was performing tasks associated with a technician, but the individual was not registered with the Board office.

PIC states that the individual had only been employed with the pharmacy as a technician for two (2) days and that the application to have him registered was in process.

*Prior complaints:*

**Recommendation: Dismissal**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**29. Case No.: L05-PHR-RBS-200503283**

Complainant alleges that an offshore internet pharmacy shipped a prescription for Celecoxib to a patient when the patient did not order the medication and did not know why she received it. An internet search of the offshore company revealed only minimal information about the domain name. The only contact was the person who marketed the domain name who had no connection with the actual pharmacy. The return address on the package was New Delhi, India.

*Prior complaints: None*

**Recommendation: Dismiss and refer to the FDA**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**30. Case No.: L05-PHR-RBS-200502955**

Complainant alleges that the pharmacy filled four (4) of her prescriptions without her permission and charged them to TennCare. Complainant says that she told them to stop as of August 1, 2005, but they still fill the prescriptions; Complainant states that she is fearful that by filling these prescriptions unnecessarily, it will affect her five (5) prescription limit imposed by TennCare.

Investigation revealed that only one (1) prescription was filled. The prescription was filled by an agency pharmacist who could not recall why he filled the prescription. The pharmacy was recently sold and files were transferred to the new owner. The transfer may have resulted in the mix-up with the automatic refill notification program. The prescription was returned to stock and the insurance company was credited.

*Prior complaints:*

*DPh (PIC): None*

*Pharmacy: None*

**Recommendation: Dismissal**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**31. Case No.: L05-PHR-RBS0-200502568**

Complainant, a nurse practitioner alleges that the Respondent refused to acknowledge nurse practitioners as prescribing providers and states that he would only accept prescriptions called in under the physician's name. Pharmacist states that the Complainant misunderstood his intentions; he asked the Complainant for the name of her supervising physician and did not refuse to fill the prescription or question her abilities to phone in a prescription.

*Prior complaints:*

*DPh: 9/96, misfill, Reprimand Letter*

**Recommendation: Dismissal**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**32. Case No.: L05-PHR-RBS-200500782**

Complaint was initiated based on a violation observed by one of our investigators during a routine periodic inspection. Investigator observed that the pharmacy was open with a technician, but no PIC present (who was the one and only pharmacist for this facility). Investigator stated that it appeared that the technician was working on a routine basis since the departure of the PIC. Additionally, the PIC had resigned approximately ninety (90) days prior to this date and the Board was not notified. Facility Administrator responded to the complaint stating that it is against the practice site's policy for the technician to be in the pharmacy without a licensed pharmacist and that the technician was made aware of that policy. Administrator states that she phoned the BOP about the change in PIC and was told that the PIC had to notify the office of the change.

**Recommendation: Consent Order with a \$250.00 civil penalty against the pharmacy for having an open pharmacy without a pharmacist present**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**33. Case No.: L05-PHR-RBS-200419484**

Complaint initiated based on a May 26, 2004 routine compliance inspection in which the investigator observed that the pharmacist on duty who had just moved back to the store, did not have a current license posted. Further inquiry revealed that the Respondent's license expired on July 12, 2003. Respondent stated that during the nine (9) month period in which his license was expired, he worked as a district manager in a neighboring state and that he only worked with an expired Tennessee license on May 25<sup>th</sup>. Respondent did not work as a pharmacist in Tennessee until he renewed his license; Respondent is currently active.

*Prior complaints: None*

**Recommendation: Letter of Warning**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**34. Case No.: L05-PHR-RBS-200502812**

During a routine periodic inspection, investigator observed a individual entering patient information into the computer system, counting tablets, labeling and preparing prescriptions to be checked by the pharmacist and the individual was not registered with the Board. Individual is a certified technician, but has been working without registration for over one (1) year. PIC stated to the investigator that she did not know it was the PIC's responsibility to ensure registration.

**Recommendation: Consent Order with \$100.00 civil penalty (PIC)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**35. Case No.: L05-PHR-RBS-200502590**

During a July 7, 2005 routine compliance inspection, investigator observed four (4) individuals performing pharmacy technician tasks with one (1) pharmacist on duty.

**Recommendation: Consent Order with \$250.00 civil penalty (DPH)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**36. Case No.: L05-PHR-RBS-200500560**

Complaint generated after receiving a Medical Malpractice Payment Report showing that a patient was awarded a monetary settlement after alleging that the incorrect medication was dispensed in July, 2002.

Pharmacist states that it is his recollection that another brand of the correct medication was dispensed. The Complainant took a dose of the medication and exhibited some symptoms causing her to go to the emergency room where she was treated and released. The pharmacist paid for her emergency room bills but deferred to the insurance company when the patient demanded money.

*Prior complaints:*

*DPh: 1095, Medicaid fraud, \$3,500.00 civil penalty, suspended for ninety (90) days, two (2) years probation;*

*Pharmacy: None*

**Recommendation: Letter of Warning (PIC)**

Dr. Julie Frazier motioned to **accept counsel's recommendation plus issue a Letter of Warning to the dispensing pharmacist**. Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

**37. Case No.: L05-PHR-RBS-200500704**

Complainant alleges that he was given a prescription for Avandia that was prescribed for another patient with the same name by the same physician on January 19, 2005. Complainant consumed the drug for almost six (6) weeks. Complainant states that while tests confirm that he has not suffered any long term effects from the wrong drug, his sinus infection progressed to pneumonia which required more aggressive treatment.

Pharmacist confirms that the error occurred. Complainant has the same name as another patient and picked up the other patient's medication instead. Respondent states that although it is the pharmacy policy to obtain the date of birth for any patient who medicine is being phoned in from a doctor's office, in this case, this was not done. The patient's caretaker and not the patient picked up the medicine and she was not fully questioned at the time of pick-up.

*Prior complaints:*

*DPh: 5/02, chemical dependency, 10 years probation;*

*Pharmacy: None*

**Recommendation: Letter of Warning**

Dr. Julie Frazier motioned to **accept counsel's recommendation as there is a breakdown in the policies and procedures**. Dr. Robert Shutt seconded the motion. All were in favor and the motion carried.



**38. Case No.: L05-PHR-RBS-200503286**

Complaint generated from Respondent correspondence reporting that he was convicted of DUI on August 30, 2005, resulting in his second DUI conviction. As a part of his plea agreement, he will be entering an addiction treatment program and then entering an inpatient program.

*Prior complaints:*

11/2001, DUI,

**Recommendation: Consent Order for indefinite suspension**

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**39. Case No.: L05-PHR-RBS-200502772**

Complainant alleges two (2) medication errors. (1). In February, 2005, a prescription for Trileptal 300mg was erroneously filled with 150mg. The error was caught by the Complainant before she consumed any of the incorrect medication. Complainant states that when she caught the error, she contacted the pharmacy and brought the pills back and the pharmacy apologized and gave her the correct strength. (2). In May, 2005, the container for a prescription for Metronidazole 500 mg tablets contained two (2) Metronidazole tablets and two (2) Carisoprodol tablets. Complainant discovered this error prior to consuming the medication.

DPh (verifying pharmacist) states that no one at the pharmacy recollected the February, 2005 incident. However, DPh states that with regard to the second incident, the prescription was entered and filled by a technician; the DPh checked the prescription, but he only examined one (1) tablet. Upon further examination, DPh found an open stock bottle of Carisoprodol on the shelf contained several (four (4) or five (5)) metronidazole 500 mg tablets; both stock bottles were by the same manufacturer and similar in appearance. All pharmacy staff was counseled never to consolidate partial stock bottles of Rx vials being returned to stock.

*Prior complaints:*

DPh: None

Pharmacy: None

**Recommendation: Letter of Warning to DPh**

Dr. Todd Bess motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**40. Case No.: L05-PHR-RBS-200502811\***

Complaint generated by staff after being informed that Respondent, DPh was suspended after testing positive for alcohol at work. His reported blood alcohol level was 0.09. Respondent agreed to an inpatient substance abuse evaluation which concluded that "he had no diagnosable disorder" and made no treatment recommendations.

**Recommendation: C/O for thirty (30) day suspension with credit for time served and a five (5) year probation with the BOP with the following conditions: no consumption of any medications except those prescribed; provide BOP with copies of prescriptions; no consumption of alcohol; random urine screens administered by the BOP or employer; Respondent is to forward urine screen results to BOP office; No PIC for three (3) years.**

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Dr. Julie Frazier motioned to **accept counsel's recommendation with the exception of two (2) years probation; no consumption of alcohol to the point of intoxication or to the point of .08**; seconded by Dr. Robert Mitchell. Dr. Robert Shutt was out of the room. The motion carried.

**41. Case No.: L94-PHR-RBS-948864\***

Complaint alleges recordkeeping and key rule violations at a now closed pharmacy where the Respondent was PIC.

**Recommendation: Letter of Warning**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**42. Case No.: L05-PHR-RBS-200502653**

Complainant, a physician, alleges that prescriptions for Duragesic patch was signed as "dispense as written" and were filled with a generic without the physician approval. The PIC states that the pharmacist who filled the prescription filled it with an unapproved generic substitution. The prescription was entered by an intern and verified by a pharmacist. As a result of this incident, the staff has been counseled about the legal requirements for generic substitution.

*Prior complaints:*

*DPh: 5/04, misfill, LOW*

*Pharmacy: None*

**Recommendation: Letter of Warning**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. Dr. Todd Bess suggested noting the change in the law. All were in favor and the motion carried.

**43. Case No.: L05-PHR-RBS-200502652**

Upon inspecting this institutional pharmacy for the purpose of a relocation inspection on June 16, 2005, the investigator noted the presence of two (2) technicians in the pharmacy area with no pharmacist present and no sign was displayed.

Pharmacist admits that he was in a meeting at a location outside of the facility and that the pharmacy was not open for approximately 1 to 1 ½ hours without the presence of a pharmacist. Pharmacist states that he did not realize that there was a law regarding the absence of a pharmacist in an institutional pharmacy. No medications were dispensed during his absence.

*Prior complaints:*

*DPh: None*

*Pharmacy: None*

**Recommendation: Letter of Warning**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**44. Case No.: L05-PHR-RBS-200501844**

Complainant alleges that a prescription for Isosorbide 20 mg (green pill) was mistakenly filled with an unidentified red pill. Complainant, spouse of the patient, left the pharmacy with the incorrect medication and realized it when she returned home. Complainant then contacted the pharmacy; pharmacy staff told Complainant to bring them medication back to correct the error. Complainant did not bring the medication back. Complainant further states that this was the second time an error has been made.

Response is from the District Manager on behalf of the pharmacist and technician. DM states that neither individual has "any independent memory" of an exact mechanism that resulted in the wrong strength medication being dispensed."

*Prior complaints:*

*DPh: None*

*Pharmacy: None*

**Recommendation: Letter of Warning to DPh**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**45. Case No.: L05-PHR-RBS-200502517**

During a routine periodic inspection, it was noted that the PIC listed at the pharmacy was no longer working there. Additional inquiries revealed that the PIC was also still listed as the owner, but had recently disassociated himself from the pharmacy and never notified the BOP. The PIC (former) entered into a buy-sell agreement with another pharmacist in 1996 and filed a new application listing him as the owner. The two (2) parties had a disagreement and made the mutual decision to dissolve the agreement, which had been in litigation. Since the dissolution agreement has been accepted by both parties, a new application has been filed a new PIC has been named.

*Prior complaints:*

*DPh (JS) (former PIC): None*

*DPh (LG) (present PIC): 3/95, sample possession, \$1,500.00 civil penalty*

**Recommendation: Letter of Warning to the former PIC who holds the pharmacy practice site license for failure to notify BOP of his removal/resignation**

Dr. Todd Bess motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**46. Case No.: L05-PHR-RBS-200500795**

Complainant alleges that a prescription for Cefzil 250mg tablets was mistakenly filled with Cefuroxime, the generic for Ceftin; the patient was a child who consumed the incorrect medication for two (2) days. The DPh who verified the prescription admits that the misfill occurred. He further states that the error was discovered upon verification but was dispensed before it was corrected. PIC states that they believe that the technician entered CEF into the computer and subsequently chose the wrong drug from the list.

*Prior complaints:*

*DPh: None*

*Pharmacy: 11/2002, wrong directions, LOW*

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**Recommendation: Letter of Warning to the DPh; Letter of Instruction to the PIC to review P & P for product selection with the staff.**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. Dr. Julie Frazier made a **friendly amendment to the motion to include in the Letter of Instruction to the PIC to review P & P for product selection and the "dispensing process..."**

Mrs. Monica Franklin seconded the friendly amendment to the motion. All were in favor and the motion carried.

**47. Case No.: L05-PHR-RBS0200502774**

Complaint alleges that the Respondent, pharmacist filled multiple prescriptions under her husband's name that were actually for the Respondent, that Respondent committed insurance fraud by filling multiple prescriptions while misrepresenting the days supply to the insurance company, Respondent forged a physician's excuse for her daughter and Respondent allows her daughter to transport medications between pharmacies.

During the course of the investigation into this case, profiles and hard copies of all prescriptions were pulled and inspected and Respondent was interviewed about the allegations. All prescriptions were properly filled, except for a prescription for Relpax written for the Respondent (#494374) was filled for her husband on November 28, 2004. This was a misfilled prescription. The prescription for the Respondent's husband that should have been filled for Relpax 40 mg (#494288) was phoned in to the pharmacy on November 26, 2004 and placed on "hold" in the computer.

*Prior complaints: None*

**Recommendation: Letter of Instruction to DPh**

Dr. Julie Frazier motioned to **accept counsel recommendation**; seconded by Dr. Todd Bess. Dr. Robert Mitchell was out of the room. The motion carried.

**48. Case No.: L05-PHR-RBS-200502804**

Complainant alleges that his prescription for Prazosin was mistakenly filled with Promethazine resulting in weakness and a sick feeling. Pharmacy has two (2) patients with the same first name and very similar last names. A prescription was entered for one patient and put on hold. At some point, someone deleted the hold and reentered it into the wrong profile and it was subsequently filled and dispensed. There is no way to determine who made the wrong entry because the computer system only records who filled the prescription.

*Prior complaints:*

*DPh: 1974, refill without authorization, Reprimand Letter*

*Pharmacy: None*

**Recommendation: Letter of Warning to the PIC suggesting that staff do a secondary confirmation on all prescriptions dispensed by verifying patient's address or phone number.**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. Dr. Robert Mitchell was out of the room. The motion carried.

**49. Case No.: L05-PHR-RBS-200502890**

Complainant alleges that his prescription for Warfarin 5 mg was incorrectly labeled "Take 10 tablets." The Complainant questioned the dosage and was told it was correct. He ingested five (5) tablets and after experiencing side effects, telephoned the prescriber who told him that the directions were to "Take 10mg (2

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tablets)." Complainant discontinued taking the medication, but needed to visit the physician six (6) times in sixteen (16) days.

DPh took the telephone prescription and wrote the directions "Take 10 today, then UD by physician." DPh states that he failed to put the mg after the 10 prior to the label being printed. PIC filled the prescription and the questioned the dose at which time the DPh verified that it should be 10mg and wrote mg on the prescription. DPh states that he did not think that the PIC heard him because they were extremely busy, but he did not follow up.

*Prior complaints:*

*PIC: None*

*DPh: None*

*Pharmacy: None*

**Recommendation: Letter of Warning to the DPh**

Dr. Julie Frazier motioned to **issue a Consent Order and a civil penalty in the amount of \$250 to both the pharmacist and the PIC involved; and to attend a medication errors course. The pharmacists will be allowed a period of ninety (90) days to attend and must submit proof to the Board.** Dr. Frazier also stated a **Letter of Warning is to be issued to the pharmacy.** Dr. Robert Shutt seconded the motion. All were in favor and the motion carried. Dr. Todd Bess suggested reading the instructions back to the individual calling in the prescription.

**50. Case No.: L05-PHR-RBS-200501693**

Complainant, a physician, alleges that prescriptions written for Duragesic Patches and signed on the "dispense as written" line of the prescription blanks are being substituted with generic Fentanyl without the physician's permission.

Investigation found four (4) prescriptions written for Duragesic and signed DAW that were filled with generic Fentanyl. DPh admitted that the prescriptions were filled without permission to substitute and further stated that the patient is on TennCare and prior approval is required for the brand name. rior approval was not obtained since it usually took more than three (3) days for the physician to help the patient, the DPh substituted the generic.

*Prior complaints:*

*DPh: None*

*Pharmacy: None*

**Recommendation: Letter of Warning**

Dr. Robert Shutt motioned to **issue a Letter of Instruction** and to provide a copy of the notice of the substitution law. Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

**51. Case No.: L05-PHR-RBS-200502599**

Complainant, mother of the patient, who is a six (6) year old child, alleges that the child's prescription for Methylphenidate was mistakenly filled with Methadone. Complainant told the investigator that the child consumed two (2) tablets which resulted in nausea and vomiting. The Complainant took the child to the hospital where he was monitored for about four (4) hours and prescribed Zofran for the nausea.

DPh states that the prescription was difficult to read and written as "Methalin" and noted as "generic Metadate". The DPh said that he misread the prescription and told the tech to enter it as Methadone. The DPh further

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states that he did not counsel the patient when the prescription was picked up because staff did not alert him per pharmacy P & P. DPh states that the error could have been prevented through patient counseling. The PIC states that he has reviewed P & P relevant to counseling, final prescription checks and quality assurance program to minimize the change of this happening in the future.

*Prior complaints:*

*DPh: 1992, unable to locate, dismiss*

*Pharmacy: 1/2005, tech ratio, dismiss*

**Recommendation: Consent Order with a \$500.00 civil penalty**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**52. Case No.: L05-P HR-RBS-200501660**

Complaint alleges that the Respondent has been dispensing medications without a prescription. Respondent admitted that he gave Xanax to patient without a prescription two (2) or three (3) times over a ten (10) day period; affidavit from the patient confirmed this and stated that it was done in exchange for sex. Respondent also admitted to giving another patient an advance on Hydrocodone on a prescription that was rejected for payment on TennCare insurance. Respondent admitted to giving another patient quantities of medication greater than what was prescribed and more frequently.

**Recommendation: Formal Hearing**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**53. Case No.: L05-PHR-RBS-200500796**

Complaint alleges that the Respondent was operating as a wholesale distributor without a license and that the Respondent improperly stored the drugs thus rendering them adulterated. Three (3) licensed pharmacists were connected to a corporation that involved the distribution of drugs for charitable causes in Latin America.

**Recommendation: Formal Hearing**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**54. Case No.: L05-PHR-RBS-200421460**

Respondent signed a Consent Order for the indefinite suspension of his license because of chemical dependency in March, 2005; at that time the Respondent was practicing pharmacy in another state. In April, 2005, the Respondent's license to practice in the neighboring state was reinstated with probationary terms and other stipulations. Respondent is now requesting the reinstatement of his Tennessee license. He has no plans to work in Tennessee, but his Tennessee license is his original license acquired through examination. He continues to meet all of the stipulations in the other state's order.

**Recommendation: Consent Order for Reinstatement placing Respondent on probation with a five (5) year term mirroring the terms in the other state's order and adding that if Respondent ever comes to Tennessee to practice he must first obtain the advocacy of the TPRN before he actively practices.**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**55. Case No.: L05-PHR-RBS-200501599**

During a routine compliance inspection, investigator noted that the door to this closed door pharmacy was open, the receptionist had keys and no pharmacist was present. Investigator also noted a substantial quantity of Somatropin injectable stored on shelving and not under refrigeration; this product was seized by the BOP and tested to determine adulteration. Product was determined not to be adulterated.

DPH states that the previous inspector indicated to her that the pharmacy was allowed to be open without the presence of a pharmacist because it is a closed door pharmacy that is not open to the public and the front door is locked. PIC states that all drugs requiring refrigeration are now properly stored.

*Prior complaints:*

*DPH: None*

*Pharmacy: None*

**Recommendation: Letter of Warning about key possession violation and Consent Order with \$250.00 civil penalty for failure to refrigerate the Somatropin.**

Dr. Robert Shutt motioned to accept counsel's recommendation; seconded by Mrs. Monica Franklin. Dr. Shutt withdrew his motion. After discussion, Dr. Robert Shutt motioned to **accept counsel's recommendation and to return the drugs**. Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

**56. Case No.: L05-PHR-RBS-200502566**

Complainant, stepmother of a six (6) year old child alleges that a prescription written for Inderal 10mg was erroneously filled with Android 10mg. The patient consumed the drug for approximately sixty (60) days before another pharmacist discovered the error. DPH acknowledges the error; he simply read the prescription incorrectly. DPH is completing the CE relevant to medication errors and has altered his personal verification procedure to reduce the recurrence of such errors.

*Prior complaints:*

*DPH: None*

*Pharmacy: None*

**Recommendation: Consent Order with \$500.00 civil penalty**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**57. Case No.: L05-PHR-RBS-200503050**

The owner of a pharmacy which records revealed only dispensed aerosol medications was arrested and charged with selling illegal and prescription drugs. The respondent was using the pharmacy license in which to obtain the drugs. The invoices were not placed in the usual and customary section but were found in the respondent's home.

**Recommendation: Authorize Formal Hearing/Consent Order. Revoke the DEA registration for both state and federal and must file a new application with the Board.**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**KRISTY HOLLIDAY, RT – REQUEST TO REINSTATE TECHNICIAN REGISTRATION  
MEMPHIS, TN**

Chief legal counsel, Mrs. Alison Cleaves advised the Board that Ms. Kristy Holliday was first registered with the Board as a pharmacy technician in February, 2004. In November, 2004, Ms. Holliday admitted in a written statement to stealing approximately 210 Alprazam and selling the drugs to a third party. Rather than appear before the Board, Ms. Holliday signed a Consent Order for Revocation. Ms. Holliday is appearing before the Board today along with her mother, Mrs. Williams to ask for reconsideration of her pharmacy technician registration. Ms. Holliday stated she was persuaded to take the drugs as she was attending college and money was tight. Ms. Holliday stated she has completed undergraduate courses and plans to attend pharmacy school and become a pharmacist. Ms. Holliday stated she realizes the severity of her actions. After board discussion, Dr. Robert Shutt motioned **to reinstate** Kristy Holliday's technician registration # 20322, with the following terms and conditions:

1. Respondent's registration will be placed on a term of probation for a period of five (5) years.
2. Respondent shall enter into a contract with the pharmacist-in-charge, acknowledging being responsible for her actions.
3. The pharmacy shall provide a controlled substance inventory.
4. Respondent shall submit to random urine screens.
5. Respondent cannot fill prescriptions for herself or family members.
6. Should respondent change place of employment, the new PIC will enter into a contract agreement.
7. Respondent shall submit copies of any new prescriptions to the Board.

Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

**WILLIAM BETHSHEARS, DPH – REQUEST FOR REINSTATEMENT OF LICENSE  
PARSONS, TN**

Dr. William Bethshears appeared before the Board to request the reinstatement of his pharmacist license. Advocate, Dr. Vance Argo with the Tennessee Pharmacist Recovery Network was in attendance on his behalf. Director Kendall Lynch stated the Board operated under the assumption of Dr. Bethshears being impaired and advised him to contact Vance Argo with TPRN. Dr. Bethshears stated he had no problems with alcohol or drugs until October, 2004, when a back injury caused him to self-medicate with Darvocet and Hydrocodone for which he did not have a prescription nor authorization from his physician. On February 1, 2005, Dr. Bethshears entered Charter Lakeside for treatment and was discharged on May 3, 2005. Dr. Kenneth Tullis stated in his letter dated May 2, 2005, that Dr. Bethshears has the advocacy from the entire team. Dr. Bethshears noted



there were no criminal charges filed. Dr. Vance Argo, advocate, advised the Board that Dr. Bethshears was compliant with the TPRN requirements. After board discussion, Dr. Todd Bess motioned:

1. Respondent does hereby agree to the reinstatement of license number **3530** with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years, from **September 20, 2005 to September 20, 2010.**
  - a. The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
  - b. The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, **John Phillips, MD**, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
  - c. The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
  - d. The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
  - e. The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
  - f. The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could

result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;

- g. The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h. The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i. If the license has been inactive, delinquent, suspended or revoked:
  - (i) **Less than one (1) year, the pharmacist shall:**
    - I. Provide written notice requesting an active license;
    - II. Satisfy all past due continuing pharmaceutical education; and
    - III. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

**NICHOLAS C. GRAYBEAL, DPH - REQUEST FOR REINSTATEMENT OF LICENSE  
BRISTOL, TN**

Dr. Nicholas Graybeal appeared before the Board along with advocate, Dr. John Bonnell, to request the reinstatement of his pharmacist license. Director Kendall Lynch stated in February of 2005, the Virginia Board of Pharmacy notified the Tennessee Board relevant to an Order Dr. Graybeal entered into on December 28, 2004, concerning the Health Practitioners' Intervention Program "HPIP". Since Dr. Graybeal had obtained employment in Tennessee, a similar contract would need to be executed. Dr. Graybeal stated he relapsed in February, 2005 and sought treatment at Cornerstone. After seven (7) months of inpatient treatment, Dr.

Graybeal was discharged on September 19, 2005. Dr. Bonnell stated Dr. Graybeal is attending meetings and aftercare programs providing feedback and insight to the group. Dr. Bonnell noted Dr. Graybeal is compliant with the TPRN requirements. After board discussion, Dr. Todd Bess motioned:

1. Respondent does hereby agree to the reinstatement of license number **10681** with the following probationary conditions. Said probation shall remain in effect for a period of ten (10) years, from **September 20, 2005 to September 20, 2015.**
  - a. The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
  - b. The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, **Bernard Grunstra, MD**, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
  - c. The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
  - d. The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
  - e. The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
  - f. The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of

alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;

- g. The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h. The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
  - (i) If the license has been inactive, delinquent, suspended or revoked:
    - (i) **Less than one (1) year, the pharmacist shall:**
      - I. Provide written notice requesting an active license;
      - II. Satisfy all past due continuing pharmaceutical education; and
      - III. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Robert Shutt seconded the motion. All were in favor and the motion carried.

**CEPHAS SLOAN, DPH - REQUEST FOR THE REINSTATEMENT OF LICENSE  
KINGSPORT, TN**

Dr. Cephas Sloan appeared before the Board today to request the reinstatement of his pharmacist license. Dr. John Bonnell, an advocate with the TPRN, appeared on his behalf. Director Kendall Lynch stated in 1990, Dr. Sloan had disciplinary actions taken against him by the Virginia Board of Pharmacy. The Tennessee Board took action based upon the Virginia Board's action and Dr. Sloan's license was summarily suspended. In September, 1992, Dr. Sloan's license was reinstated with a probationary term of five (5) years. In August,

2004, Director Lynch received a telephone call from a physician who stated Dr. Sloan had been admitted to Holston Valley for chemical dependency and later was discharged to Indian Path Hospital for detox. On August 24, 2004, Dr. Sloan entered Cornerstone and was discharged in November, 2004. Dr. Sloan advised the Board that his relapse began as he quit attending meetings. After experiencing difficulty sleeping, Dr. Sloan stated he started taking Ambien and other medications. Dr. Sloan stated he started to isolate himself from others and in December, 2004, went to a Christian boot camp for two months. After returning from camp, Dr. Sloan entered into a contract with TPRN and has completed the 90/90 meetings. Dr. Bonnell advised the Board that Dr. Sloan had fourteen (14) years of sobriety and was a model of recovery. Dr. Bonnell advised the Board Dr. Sloan is compliant with the TPRN requirements. After board discussion, Dr. Robert Shutt motioned:

1. Respondent does hereby agree to the reinstatement of license number **3285** with the following probationary conditions. Said probation shall remain in effect for a period of ten (10) years, from **September 20, 2005 to September 20, 2015.**
  - a. The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
  - b. The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, **Arthur Boyd, MD**, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
  - c. The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
  - d. The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
  - e. The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs

or controlled substances (a copy of the prescription will satisfy the requirement);

- f. The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- g. The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h. The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i. If the license has been inactive, delinquent, suspended or revoked:
  - (i) **Less than one (1) year, the pharmacist shall:**
    - I. Provide written notice requesting an active license;
    - II. Satisfy all past due continuing pharmaceutical education; and
    - III. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

**TAMMY LARD, DPH - REQUEST FOR REINSTATEMENT OF LICENSE  
HIXSON, TN**

Dr. Tammy Lard was in attendance today to request the reinstatement of her pharmacist license along with advocate, Dr. Jeff Casey. Director Kendall Lynch stated in January, 2002, Dr. Lard's license was summarily suspended due to chemical dependency. In May, 2002, Dr. Lard's license was reinstated with a term of probation for five (5) years. Dr. Lynch noted on July 7, 2004 a urine screen tested positive for Phentermine and again on October 12, 2004 and October 28, 2004, for which there were no prescriptions on file. Dr. Lard stated she was very resentful and mad at herself for allowing others to make choices for her. Dr. Lard noted she has learned that she must be responsible for her actions. Dr. Lard went to Cornerstone and attended an out-patient program. Dr. Jeff Casey stated Dr. Lard is attending meetings every day and working the steps; and seeks advice from her counselor. After board discussion, Dr. Robert Shutt motioned:

1. Respondent does hereby agree to the reinstatement of license number **8947** with the following probationary conditions. Said probation shall remain in effect for a period of ten (10) years, from **September 20, 2005 to September 20, 2015.**
  - a. The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
  - b. The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, **Jay Wright, MD**, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
  - c. The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
  - d. The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the

prescribed course of treatment;

- e. The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- f. The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- g. The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h. The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i. If the license has been inactive, delinquent, suspended or revoked:
  - (i) **Less than one (1) year, the pharmacist shall:**
    - I. Provide written notice requesting an active license;
    - II. Satisfy all past due continuing pharmaceutical education; and
    - III. Pay all cumulative license renewal fees and any applicable penalties.



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Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

## **ADJOURNMENT**

President Reggie Dilliard requested the Board of Pharmacy meeting to be adjourned on Tuesday, September 20, 2005 @ 4:35 p.m. CDT; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

## **RECONVENED**

The Tennessee Board of Pharmacy reconvened on Wednesday, September 22, 2005 at 9:00 a.m. CDT in Room 160 of the Davy Crockett Tower, Nashville, Tennessee. A quorum of the members being present, President Reggie Dilliard called the meeting to order. Dr. Sheila Mitchell was not present.

## **COLLETTE FREEMAN, DPH - REQUEST FOR REINSTATEMENT OF LICENSE HERMITAGE, TN**

Dr. Collette Freeman appeared before the Board of Pharmacy along with advocate, Dr. Tommy Malone, with the Tennessee Medical Foundation, to request the reinstatement of her pharmacist license. Director Kendall Lynch noted to the Board in March, 1998, Dr. Freeman received treatment for chemical dependency and the license was reinstated with a term of five (5) years probation; May, 2000, Dr. Freeman's license was revoked for violating probation; in January, 2002, the license was reinstated with five (5) years probation after seeking treatment; in March, 2003, Dr. Freeman's license was revoked due to seeing a physician other than her primary care physician and subsequently lost her advocacy with the Concerned Pharmacist Committee. Dr. Freeman explained to the Board that she had an eating disorder and the physician offered her Phentermine. Dr. Freeman states her recovery is strong; has advocacy and attends two (2) meetings weekly. Dr. Freeman feels she is able to ask for help when overwhelmed and can seek advice from her counselors when needed. Dr. Tommy Malone advised the Board that Dr. Freeman is able to deal with people differently which was an issue and if she continues doing well, she will be OK. Dr. Freeman stated she feels more acceptable with the Concerned Pharmacist Committee than with TPRN. Dr. Malone advised that Dr. Freeman will be on a strict schedule of forty (40) hours/week maximum. Dr. Freeman noted her support group consists of her sponsor, "CPC" plus the support group; family consisting of mother, brother and sister and friends. After board discussion, Dr. Robert Shutt motioned:

1. Respondent does hereby agree to the reinstatement of license number **4530** with the following

probationary conditions. Said probation shall remain in effect for a period of ten (10) years, from

**September 20, 2005 to September 20, 2015.**

- a. The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
- b. The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, **Lee Tucker, MD**, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- c. The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- d. The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- e. The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- f. The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the **Concerned Pharmacists Committee** for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;

- g. The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h. The Respondent shall not serve as pharmacist-in-charge for a period of Three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i. If the license has been inactive, delinquent, suspended or revoked:
  - (ii) **One (1) year to not more than five (5) consecutive years, the pharmacist shall:**
    - I. Provide written notice requesting an active license;
    - II. Satisfy all past due continuing pharmaceutical education;
    - III. Successfully complete the Multi-State Pharmacy Jurisprudence Examination (MPJE);
    - IV. Pay all cumulative license renewal fees and any applicable penalties;
    - V. Complete a period of pharmacy internship in Tennessee.
      - A. From one (1) year to not more than three (3) consecutive years, one hundred sixty (160) hours within ninety (90) consecutive days.

Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

**JAMES MASON, DPH - REQUEST FOR THE REINSTATEMENT OF LICENSE  
MURFREESBORO, TN**

Dr. James Mason was in attendance today to request the reinstatement of his pharmacist license. Advocating on his behalf were Dr. Randall Jean and Dr. Kevin Hartman with the Tennessee Pharmacist Recovery Network. Director Kendall Lynch advised the Board in November, 2001, Dr. Mason's license was revoked due to chemical dependency; in May, 2002, the license was reinstated with five (5) years term of probation. In July, 2005, Dr. Mason relapsed and due to a disagreement between the treatment team and TPRN, his license was

placed in inactive/retired until the issues could be resolved. Dr. Mason stated he started a new job in January, 2005 and had worked only three weeks when an attempted burglary took place. Shortly thereafter, Dr. Mason stated he had to terminate a troubled employee and subsequently experienced another armed robbery. After the second robbery attempt, Dr. Mason resigned his position in June, 2005. Dr. Mason returned to Cornerstone and was diagnosed with post-traumatic stress disorder as a result of the robberies. Dr. Kevin Hartman, advocate with TPRN, stated Dr. Mason had almost four (4) years of sobriety prior to these events and he was not demonstrating any problems with recovery. Dr. Hartman stated that TPRN suggested Dr. Mason should attend a four-day evaluation but the treatment team thought it would not be appropriate. Dr. Mason said he did not deal with the circumstances properly as he should have relied on his support group. Dr. Randall Jean noted Dr. Mason is compliant with TPRN requirements. After board discussion, Dr. Todd Bess motioned:

1. Respondent does hereby agree to the reinstatement of license number **7977** with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years, from **September 21, 2005 to September 21, 2010.**
  - a. The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
  - b. The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, **Mark Josovitz, MD**, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
  - c. The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
  - d. The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;

- e. The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- f. The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- g. The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h. The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i. If the license has been inactive, delinquent, suspended or revoked:
  - (i) **Less than one (1) year, the pharmacist shall:**
    - I. Provide written notice requesting an active license;
    - II. Satisfy all past due continuing pharmaceutical education; and
    - III. Pay all cumulative license renewal fees and any applicable penalties.

and, to start the new consent order today. Dr. Julie Frazier seconded the motion. All were in favor and the motion carried.

**JAMIE GUNNELLS, DPH  
VANGUARD HEALTHCARE SERVICES**

Dr. Jamie Gunnells with Vanguard Healthcare Services in Brentwood, Tennessee, met with the Board to discuss the features of MedSelect, a new automated dispensing device to be used in nursing home facilities. The MedSelect cabinets are linked to a centralized database network that tracks inventory, patient usage, provider usage and other critical data. MedSelect also offers the latest in unit dose dispensing, barcode scanning and verification and medication orders interfaces. Dr. Gunnells stated the MedSelect cabinets will be able to fill medication orders in either multi-dose or unit dose for a period no greater than seven (7) days. Director Kendall Lynch advised there is currently no impediment in the pharmacy law or rules to prohibit this device as it is the duty of the Board to enforce the pharmaceutical laws pursuant to T.C.A. §63-10-304.

**BRENDA WARREN, DPH  
ACCREDITO HEALTH**

**RICH PALOMBO, DPH  
MEDCO PROFESSIONAL PRACTICE**

Dr. Brenda Warren with Accredo Health and Dr. Rich Palombo affiliated with Medco Professional Practice appeared before the Board to discuss allowing a pharmacist to work from their home as an alternative pharmacy practice site. Dr. Warren stated Accredo is a specialty pharmacy which dispenses core products. The traditional retail pharmacies typically do not supply these medications due to the cost and the need for temperature sensitive handling and storage. Due to the pharmacist shortage, Accredo is evaluating the opportunities afforded by a pharmacist to work from their home. Accredo has developed and adopted specific policies relevant to the HIPPA guidelines. Dr. Warren noted Accredo believes it would be in compliance with Rule 1140-3-.02 - Location of Practice - as the pharmacist would not be compounding, dispensing, packing or shipping from their residence and would be performing the same tasks as a pharmacist working in the "front-end" tasks. The Board acknowledged as long as the pharmacist has a valid Tennessee license, it appeared to be consistent with the Rules.

Tennessee Board of Pharmacy  
September 20 - 21, 2005  
**CERTIFICATE OF MERIT**  
**ROBERT SHUTT, DPH**

President Reggie Dilliard presented to Dr. Robert Shutt a "Certificate of Merit" for his outstanding service to the Board. Congratulations!!

**ADJOURNMENT**

President Reggie Dilliard adjourned the Board of Pharmacy meeting on Wednesday, September 21, 2005 at 1:15 p.m. CDT.

Respectfully submitted,

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Reggie Dilliard, President

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Kendall M. Lynch, Director